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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/747,774

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EXAMINER

BOUCHELLE, LAURA A

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

03/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/747,774	Applicant(s) FUIMAONO, KRISTINE B.	
	Examiner LAURA A. BOUCHELLE	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-21 is/are rejected.
- 7) ☒ Claim(s) 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 2, 10, 14-16, 18 are rejected under 35 U.S.C. 102(a) as being anticipated by Eggers et al (US 6047700). Eggers discloses an irrigation ablation probe comprising: a probe body 90 having proximal and distal ends and being generally rigid to resist bending during use (col. 4, lines 27-30), wherein the distal end of the probe body is fixedly bent at an angle a ranging from about 60 to about 140° (col. 20, lines 7-12, see Fig. 9 where the probe is bent to approximately 90 degrees) , the probe body comprising: a tubing 78 (see Figs. 7b, and col. 19, lines 13-15) having proximal and distal ends and at least one lumen extending therethrough, an elongated tip electrode 104 mounted at the distal end of the tubing, the tip electrode having an exposed length along which is positioned at least one irrigation opening through which fluid can pass (the exposed length of the electrode extends perpendicularly to the distal end of the probe body, the opening through which fluid can pass is the opening 88 as can be seen in Fig. 7b), wherein the tip electrode is configured to ablate tissue along the exposed length to form a lesion (col. 6, lines 16-25, where Eggers discloses that the device delivery electrical energy to remove and/or modify tissue or cartilage, i.e. ablate, or cut and resect tissue), and means for introducing fluid through

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the at least one irrigation opening of the tip electrode; and a handle 204 mounted to the proximal end of the probe body.

3. The introducing means comprises an infusion tube 112 (fig. 7b and col. 19, lines 54-56, the return electrode 112 is a tubular member having fluid flowing therethrough) extending through the tubing 78 and in fluid communication with the irrigation opening of the electrode.

4. Eggers discloses that the probe is 10 to 20 cm (4-8 inches) or more in length (Col. 8, lines 44-46). The length of the electrode (which corresponds to the diameter) is in the range from 1-10 mm (col. 8, lines 46-48).

5.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 3-7, 17, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers in view of Alt (US 5411527). Claims 3, 7, 17 differ from Eggers in calling for the probe to include a stiffening wire. Alt teaches a device for treating atrial fibrillation comprising a probe having a stiffening wire 30 that straightens and stiffens the tube sufficiently to be passed through a puncture in the chest wall (Col. 15, lines 37-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Eggers to include a stiffening wire in the probe as taught by Alt so that the probe is straight and stiff enough to be inserted through a puncture in the chest wall.

8. Regarding claims 4-6, Eggers discloses that the probe is 10 to 20 cm (4-8 inches) or more in length (Col. 8, lines 44-46).

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9. Claims 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers in view of Alt as applied to claim 3 above, and further in view of Lucas et al (US 5795332). Claim 8 differs from the teachings above in calling for the stiffening wire to be stainless steel. Claim 9 differs in calling for the wire to be a malleable material. Lucas teaches a catheter having a stiffening wire made of stainless steel (a malleable metal) to provide the desired rigidity to the catheter (Col. 6, lines 44-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Eggers in view of Alt to have the stiffening wire made of stainless steel because it is well known in the art that stainless steel can be used to form stiffening wires.

Allowable Subject Matter

10. Claims 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 11/18/09 have been fully considered but they are not persuasive. Applicant argues that Eggers does not teach an elongated tip electrode. The examiner disagrees. The electrode of Eggers is not a single point electrode and therefore has some length, or is elongated. The exposed length of the electrode is the length, or the dimension, that contacts the tissue. In the case of Eggers, the length is in the direction perpendicular to the distal tip of the probe body.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle
Examiner
Art Unit 3763

/Laura A Bouchelle/
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763